

Item #: \_\_\_\_\_  
Moved by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

Prepared By: Rhonda O'Dell  
Reviewed By: Kim Koratsky

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, SECTION 2-263 OF THE CODE OF ORDINANCES OF SHELBY COUNTY, TENNESSEE TO CHANGE THE TERMINATION PROCESS FOR ALL ATTORNEYS SUBORDINATE TO THE COUNTY ATTORNEY. SPONSORED BY COMMISSIONER VAN TURNER AND COMMISSIONER TERRY ROLAND.

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WHEREAS, The Shelby County Charter states the “county attorney shall act as chief counsel to the Shelby County government, and he [or she] shall act as legal advisor to the county mayor, the county commission, and to all departments ... and officials of the Shelby County government and shall perform such other duties as may be required.” Section 3.08(A)(2); and

WHEREAS, The Board of County Commissioners did adopt the Code of Ordinances, specifically Chapter 2, Article IV, Section 2-263 which authorizes the county mayor to appoint “such assistant county attorneys as may be deemed necessary for the efficient operation of the county attorney’s office;” and

WHEREAS, Such assistant county attorneys (including deputy and supervising county attorneys) act under the direction of the County Attorney, who, pursuant to the Shelby County Charter cited above, represent the county mayor, the county commission and all departments and officials of Shelby County government; and

WHEREAS, The Shelby County Code of Ordinances currently provides that such assistant county attorneys “shall serve under the direction and at the pleasure of the county mayor;” and

WHEREAS, The Shelby County Board of Commissioners passed Ordinance No. 466 on August 29, 2016, to change the process whereby the County Attorney may be terminated so as to alleviate any concern of the County Commission about the independence of the County Attorney from the Administration, in particular, on those occasions when the opinions of the County Commission and Administration may present a conflict; and

WHEREAS, The Board of County Commissioners desires to make the termination process for all attorneys in the County Attorney's Office who are subordinate to the County Attorney based on a system intended to better allow for open and candid legal analysis without undue influence from a single appointing official, as was the intent of Ordinance No. 466 adopted on August 29, 2016; and

WHEREAS, The Tennessee Rules of Professional Conduct for attorneys, specifically Rule 1.16, contemplates that a client has a right to discharge a lawyer at any time; and

WHEREAS, The Board of County Commissioners deems it appropriate, for the purposes of this Ordinance, to define the "client" of the County Attorney's Office as Shelby County Government, and the decision-maker for that client as the Mayor, with the concurrence of the Board of County Commissioners.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That Chapter 2, Article IV, Section 2-263 of the Code of Ordinances of Shelby County, Tennessee, be amended to read as follows:

**Sec. 2-263. - Assistant county attorneys.**

The county mayor is authorized to appoint such **deputy, supervising, and** assistant county attorneys as may be deemed necessary for the efficient operation of the county attorney's office. ~~The~~ **All attorneys subordinate to the county attorney, including but not limited to the deputy, supervising, and** assistant county attorneys shall each be a person licensed to practice law in the state, ~~and~~ shall serve under the direction **of the county attorney, and, other than those instances where an attorney is suspended from or loses his or her license to**

practice law (which do not need to be brought to the board of county commissioners), shall be subject to dismissal by the county mayor only with the concurrence of a resolution of the board of county commissioners. ~~and at the pleasure of the county mayor.~~ The compensation for each such **attorney** ~~assistant attorneys~~ shall be fixed by the board of county commissioners and shall be paid out of the general funds of the county.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect fifteen (15) days from and after the date of its final passage, the public welfare requiring the same.

\_\_\_\_\_  
County Mayor

Date:\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of County Commission

FIRST READING:\_\_\_\_\_

SECOND READING:\_\_\_\_\_

ADOPTED

THIRD READING:\_\_\_\_\_

## **SUMMARY SHEET**

### **I. DESCRIPTION OF ITEM**

Enactment of this Ordinance will place all attorneys in the County Attorney's Office, who are subordinate to the County Attorney, under the direction of the County Attorney and will change the termination procedure for those attorneys to require the concurrence of the Board of County Commissioners.

### **II. SOURCE AND AMOUNT OF FUNDING**

This ordinance requires no County funding.

### **III. CONTRACT ITEMS**

Not applicable.

### **IV. ADDITIONAL INFORMATION RELEVANT TO APPROVAL OF THIS ITEM**

None.